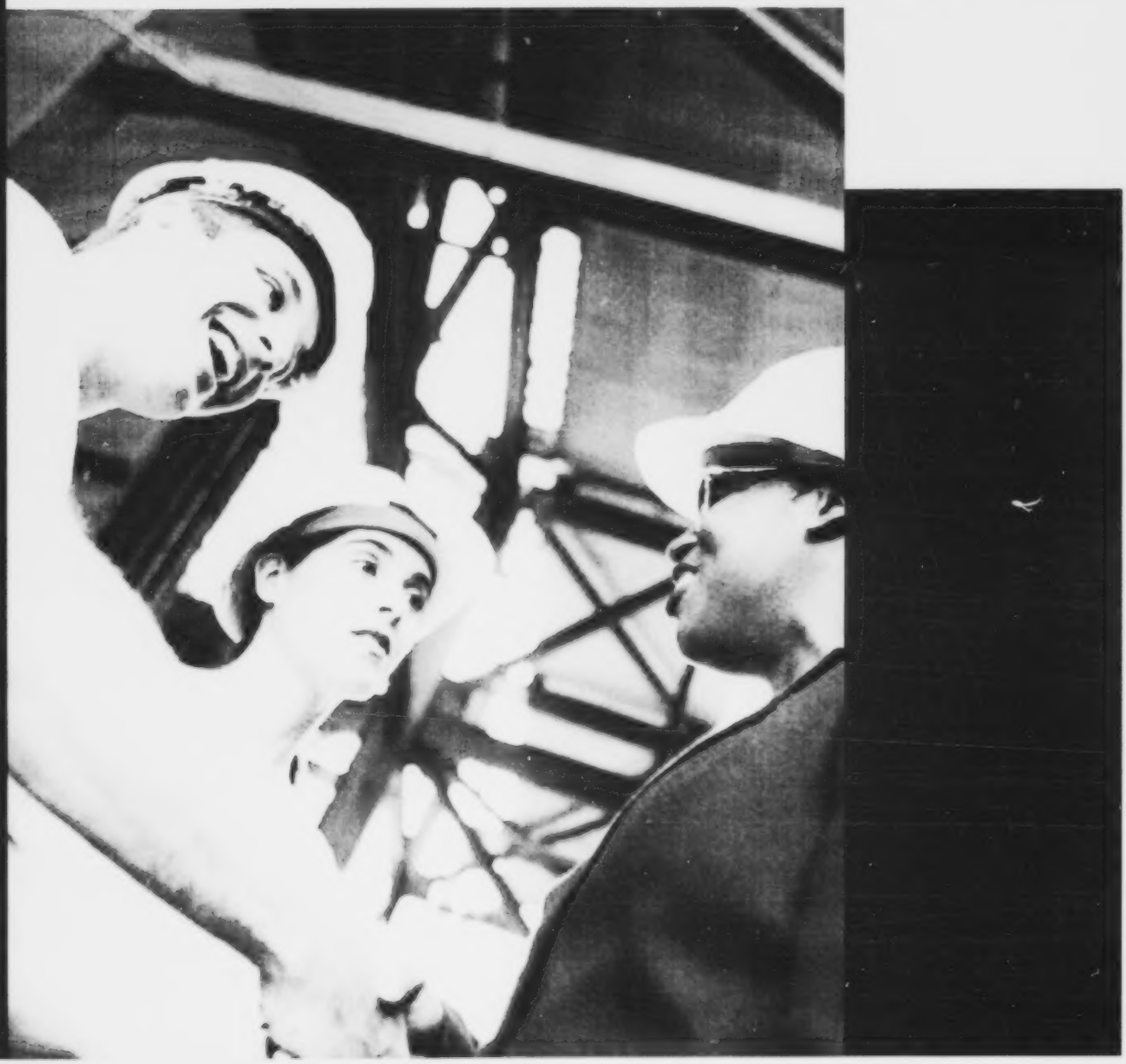
Department of Environment and Labour

Occupational Health and Safety

Construction Project Joint Occupational Health and Safety Committees: A Practical Guide



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Introduction

Purpose of the Guide

This guide is designed to help employees and constructors develop effective Construction Project Joint Occupational Health and Safety Committees. The effective operation of a Project Committee will greatly assist the constructors on a construction project in the coordination and communication of activities. The guide addresses the establishment and operation of Project Committees. For information on the requirements for single employer workplaces see the Department of Environment and Labour publication *Joint Occupational Health and Safety Committees: A Practical Guide for Single Employer Workplaces.* In addition, the Canadian Centre for Occupational Health and Safety publication *Health and Safety Committees Reference Guide* ISBN 0-662-28010-5, also provides an overview of committee operations. In particular, the publication covers the "how to" of inspections and investigations which are not covered by this publication.

The information provided is not intended to be a substitute for the *Occupational Health and Safety Act* and should not be considered an authoritative legal directive. The guide provides both a summary of the requirements of the *Act* and suggestions that serve as guidelines to what individuals and organizations could do as a matter of good practice. A complete reading of the *Act* is encouraged.

More Information

If you need further information, contact the
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The Occupational Health and Safety Act

The *Occupational Health and Safety Act* (the "*Act*") provides legal basis for the protection of employees in the workplace. The foundation upon which the *Act* is built is the Internal Responsibility System. The Internal Responsibility System (IRS) is based upon the principle that employees and employers share in the responsibility for creating and maintaining a safe and healthy workplace.

The creation of a Construction Project Joint Occupational Health and Safety Committee is part of the employer's and employee's responsibility and right to participate. Sections 29 to 32 of the *Act* set out the requirements for committees. Refer to Appendix 6 for the relevant sections of the *Act*.

In keeping with IRS, the role of the Occupational Health and Safety Division of the Nova Scotia Department of Environment and Labour is to establish and clarify the responsibilities of workplace parties and to support them in carrying out their responsibilities. When workplace parties do not carry out their responsibilities the Division will intervene to ensure compliance with the *Act* and regulations.

Requirement for a Project Joint Occupational Health and Safety Committee

What is a Construction Project Joint Occupational Health and Safety Committee?

Work on construction projects pose the potential for increased hazards at the workplace due to the number of constructors and employees that may be present at any one time. In order to address this hazard the *Act* requires the establishment of a Construction Project Joint Occupational Health and Safety Committee at some projects. The role of the project committee is to promote communication, coordination and control of hazards associated with the interaction of constructors at a project.

The project committee consists of constructors and employees working together to improve occupational health and safety on a construction project. Ultimately, the workplace parties (the constructors and employees) are responsible and accountable for decisions made regarding occupational health and safety. However, the project committee has a vital role to play in workplace health and safety by providing the workplace parties with advice and a means of communicating health and safety issues.

Does my construction project require a project committee?

In Nova Scotia a project committee is required where:

- 20 or more people are regularly employed at a construction site.
- the Director of the Occupational Health and Safety Division orders its establishment.

Short duration projects (less than 4 weeks), involving more than 1 constructor do not normally require a Project Committee. However, it may be prudent where high risk or complex activities are carried out to form some type of a project - wide health and safety committee.

Individual constructors are not normally required to establish their own joint occupational health and safety committees for their workforce on individual projects. Consideration should be given to the formation of a committee for a constructor's workforce if participation in the home base committee of the constructor would not be adequate. The home base committee is the committee the constructor may be required to establish based on the number of employees employed at the constructor's workplace (not at a specific construction project). This may be due to the fact that the work performed by the constructor's workforce is in a remote location or there are unique hazards present.

It is important to remember that the formation of the project committee does not relieve individual constructors of their duty to form a home base Joint Occupational Health and Safety Committee for their own workers if they regularly employ 20 or more employees.

If a construction project requires a project committee, does it also require an occupational health and safety policy and program?

No. There is no requirement for a construction project as a whole to have an occupational health and safety policy or program. However; individual constructors are required by the *Act* to establish an occupational health and safety policy where they regularly employ 5 or more employees in their company. Where an individual constructor regularly employees 20 or more employees in their company they are required to establish an occupational health and safety program. See the Occupational Health and Safety Division publication *A How-to Guide for an Occupational Health and Safety Policy and Program* or contact the Division for more information.

Who is responsible for establishing the project committee?

Construction sites typically have more than one constructor at the site. The *Act* states that the constructor with the greatest degree of control over matters at the site is primarily responsible for the formation of the project committee. This is often the general constructor, also known as general contractor, or the owner of the project. The hierarchy of control, or chain of command, for project management should be established through a contract agreement. This is not a requirement of the *Act*, but is considered a sound business practice.

However, if the constructor with the greatest degree of control over matters at the site does not establish the project committee, each individual constructor on the site is responsible for establishing the project committee. This means as a constructor at the site you should take the initiative and contact others with regard to the establishment of the project committee.

What types of issues should be included in a contract agreement?

A good way for the constructors at a construction project to establish responsibilities for the operation of the project committee is to address the issue in the construction contract agreement. The level of detail included in the contract will vary depending on the size and complexity of the project. Some of the decisions that will need to be made regarding the establishment and operation of the project committee include:

- responsibility for establishment of the project committee
- size of the project committee
- composition of the project committee
- role of the project health and safety coordinator
- payment of project committee members - will costs be shared or will each constructor pay for their employees?
- responsibility for project committee member training
- responsibility for provision of resources for the project committee - meeting space, office supplies etc.
- responsibility for maintaining minutes of meetings
- responsibility for responding and implementing project committee recommendations
- regulatory compliance
- frequency of inspections.

On larger projects, prior to finalizing an agreement, the constructors may wish to seek input from a Department of Environment and Labour Occupational Health and Safety officer. The officer can provide information on the options available for establishing responsibilities in the contract agreement. For a listing of officers and their assigned regions, refer to our website at www.gov.ns.ca/enla/ohs or call 1-800-952-2687.

In some instances, the construction contract may deal with some, but not all, of the issues related to the operation of the project committee. However, in the end, decisions about the responsibility for the establishment and operation of the project committee should be made prior to the start of work at the construction project.

What if the constructors at the site don't agree on who should establish the project committee?

If there is disagreement over who should establish the project committee or who should be on the project committee, the Occupational Health and Safety Division should be contacted. The Director of the Division will decide the matter.

Choosing project committee members

How many people should be on the project committee?

The *Act* gives constructors and employees the power to determine the actual number of people who will sit on the project committee. However; the *Act* requires that at least half of the project committee members must be non-management employees. The constructors may choose up to half of the members if they so wish. The project committee members will be determined by project activity. The preparation of a project participation chart during the planning stages will assist in determining who should be on the project committee. The contract agreement should include a process for determining the constructor members of the project committee.

Only employees currently working at the site are permitted to represent other employees on the project committee. However; it may be useful to have employee representatives attend project committee meetings prior to their arrival on site. But, they may attend as observers only.

What factors should be considered when determining the size and structure of the project committee?

The project committee should be large enough to fairly represent groups of employees who have significantly different occupational health and safety concerns, but not so large as to be unmanageable.

Points to consider when determining the size and structure of the project committee are:

- how long will the project last?
- how many constructors are on the project?
- how many unions are present at the project?
- how complex is the project?
- how many workers are involved?
- how many different sub-trades are involved?
- how many employee organizations or unions are present at the project?
- how many different operations or processes are involved?
- what are the hazards in the workplace?
- are there sufficient numbers to perform the project committee members' roles in inspections and investigations?

Who selects the project committee members?

Employee members of a project committee must be selected by the employees. In a unionized workplace, the employee members may be selected by the trade union or unions representing the workers.

The *Act* requires the constructor to post the current names of project committee members and the means of contacting them at the project. This could be achieved, for example, by posting the project committee names in the lunch areas.

What factors should be considered when choosing project committee members?

Project committee members should represent the types of work being done at the project. Factors to be considered when choosing members include:

- length of time the constructor is/will be at the project
- quality of constructors' internal health and safety programs
- commitment to health and safety
- communication skills
- years of experience
- types of work performed
- hazards associated with work performed
- health and safety training

Special attention should be paid to the fact that constructors come and go at projects quite frequently. This is especially true on large projects. The constructors should agree upon a process for tracking current employees at the project. Only current employees of the project are permitted to be full members of the project committee. This does not mean future employees cannot attend project committee meetings. They may attend as observers, but would not be able to take part in any official committee duties.

Choosing people with experience and a strong commitment to health and safety will greatly enhance the effectiveness of the project committee.

What is the role of the project health and safety coordinator in relation to the project committee?

Although it is not a requirement of the *Act*, many projects employ a health and safety coordinator or similar position. The project coordinator should attend all project committee meetings as they will be a good source of information for the project committee. The project coordinator may be a member of the project committee, an advisor, or a guest. It is important, however, to ensure meetings are not dominated by the project coordinator. The exact role of the project coordinator in relation to the project committee should be determined by the project committee.

Procedures of Project Committees

What are the rules of procedure for project committees?

Project committees must establish their own rules of procedure which includes a method for determining the persons or person who will hold the position of chair. Most project committees use a co-chair system. One co-chair must be selected by the employee members to represent the employees. The other co-chair usually represents the constructors. Chairing of the meetings is often alternated between the two. A co-chair system provides balance to the project committee and also splits the workload for each co-chair.

In order for the project committee to operate effectively the rules of procedure should include provision for how the project committee will participate in or deal with:

- composition of the project committee
- communication and coordination with constructors' home base committees
- term of appointment of members
- the way in which meetings are to be called and who can call a meeting
- notice to be given for regular meetings (should be at least two days in advance of a meeting)
- frequency of meetings
- emergency meetings and conditions under which emergency meetings will be called
- conduct of meetings
- setting the agenda
- matters that the *Act* requires the project committee be consulted on
- inspections
- investigations
- hazard identification
- responses to complaints, work refusals, accidents, or incidents reported to the project committee or committee members
- communications
- response to recommendations - which constructor/s will respond to project committee recommendations?
- minutes/record maintenance and storage
- quorum
- chairing
- method of reaching decisions

When should the project committee meet?

At a minimum, the project committee should meet once a month. It may be appropriate, depending on the type of work or number of employees, for the project committee to meet more often. The frequency of meetings may also be impacted by the nature of the project environment. Any change to the frequency of meetings must be allowed for by the project committee in its rules of procedure.

If the Director of the Occupational Health and Safety Division is not satisfied that the frequency of meetings established in the rules of procedure is sufficient to ensure the proper functioning of the project committee, the Director may require a different frequency.

Do project committee members get paid for time spent on project committee duties?

Yes. Employees who are members of the project committee must be paid for time away from their regular duties for participation in project committee related activities. They are required to be paid by at the rate they would be paid if they were doing their regular job at the time of the project committee activity.

Activities related to project committee functions include:

- preparing recommendations
- attending training required by regulation and/or necessary to carry out the employee's functions as a project committee member
- participating in inspections, investigations, or similar activities
- preparing and reviewing inspection results and hazard reports
- attending meetings
- observing tests
- dealing with work refusals
- carrying out agreed upon project committee activities

What happens if agreement is not reached on the composition or procedures of the project committee?

The decisions made with respect to the composition and procedures of the project committee are best made by the project parties. If the constructors and the employees cannot reach agreement on the size of the project committee, the designation of employees and constructors to be members, or the rules of procedure, the Director of the Occupational Health and Safety Division will determine these issues.

Meetings of the Project Committee

What is the purpose of a project committee meeting?

The focus of the project committee is the coordination and communication of hazard information among and between the various employees and constructors on the project. The purpose of the meeting is to exchange information and make recommendations to the constructors regarding safety and health concerns at the project.

How many project committee members must be present in order to conduct a meeting?

The *Act* does not specify the minimum number of project committee members present to conduct a meeting. This is something that would be decided in the rules of procedure. However, each meeting of the project committee should have at least fifty percent of the members present, with fifty percent of the employee representatives and at least one constructor representative at the meeting. Regular attendance at meetings is a must and should be encouraged and facilitated.

How are project committee members to be notified of meetings?

All project committee members should be notified at least two days in advance of meetings and told the date, time and place of each meeting. Meetings should be scheduled with committee members' work schedules in mind. This information should be included in the minutes of the previous meeting. The minutes are required to be posted by the constructors.

In order to operate effectively, the project committee requires information about project inspections and incidents. The constructors should notify project committee members of incidents and accidents by forwarding copies of reports to members as soon as possible to allow time for the reports to be reviewed.

How is an agenda to be prepared?

The preparation of an agenda is an important part of the effective operation of project committee meetings because it establishes the format for the meetings and provides a means of organizing the meeting. The co-chair should review the minutes and post a draft agenda for the next meeting along with the minutes of the previous meeting. All project committee members should give the chair or co-chair ample notice of items they wish to raise at the meeting. An agenda should be prepared by the chair(s) and be distributed to all members at least one week in advance of the meeting. The agenda should also be sent to any constructors that are not directly represented on the project committee. The agenda could include the following items:

- roll call
- approval of the minutes of the last meeting
- unfinished business
- project health and safety topic for discussion
- review of complaints
- review of incidents
- review of inspection reports
- review of reports related to occupational health and safety
- update on health and safety training
- special assignment reports by members and subcommittees
- new business
- adjournment

It's a good idea to create a list of occupational health and safety topics to be discussed over the life of the project. Topics could be scheduled for each meeting, every other meeting, and so on. The frequency would depend on the meeting schedule of the project committee. The goal is to discuss and make recommendations regarding potential health and safety hazards before they happen.

Refer to Appendix 1 for a sample agenda.

Refer to Appendix 2 for a sample list of occupational health and safety topics of discussion.

How should meetings be conducted?

It is not necessary for project committee meetings to follow strict parliamentary procedures with motions, amendments, and votes on each motion. Following the guidance of the co-chairs, the project committee should reach agreement through consensus rather than deciding matters by majority vote. The keys to successful project committee meetings are:

- regular attendance
- beginning on time
- following the agenda
- discussing one item at a time
- proposing a solution if required
- keeping the meeting on track
- assigning responsibilities including deadlines
- closing the meeting on a positive note

Meeting lengths and procedures for conducting meetings vary. Depending on the type of company or the work environment meetings may be short in length or require more time. The way in which meetings are conducted can be informal or formal. The decisions about the length of meetings and how they are to be conducted are decisions to be made by the project committee. However; meetings must be long enough and conducted in such a way that allows the project committee to fulfill its responsibilities.

More formal procedures for conducting meetings can be found in Appendix 5.

Must minutes of the project committee meetings be kept?

The *Act* requires minutes of meetings to be kept. The constructors will need to decide who will keep the minutes. Minutes provide a permanent record of the decisions reached and a record of the project committee's activities and successes. Minutes of meetings should:

- include the name and address of the project and constructor
- state the date and time of the meeting
- list those in attendance
- include agenda items
- list agenda items not discussed or unfinished
- include a clear statement of the nature of the items discussed
- include a clear statement of the nature of all health and safety hazards discussed
- list concerns or complaints of members, if any, and a description of each
- list concerns dealt with between meetings, if any
- include a statement about any
  - inspection or investigation done
    - complaint or work refusal received
    - report of an accident or incident
- be short and factual
- indicate where action is required
- indicate who is responsible for each action to be taken
- have a deadline for the action to be taken
- explain why, if applicable, action was not taken and when the action is expected to be complete
- specify any reports that are required
- be approved by the co-chair

The constructor is required to post minutes of project committee meetings. Minutes provide a written record of health and safety activity at the workplace and should be retained by the constructor for at least five years. The contract agreement should state which constructor will be responsible for retaining the minutes.

Refer to Appendix 3 for samples of project committee minutes.

What if a project committee member disputes the accuracy of the minutes?

When a project committee member disputes the accuracy of the minutes of a meeting, the matter should be raised at the next meeting and corrections can be noted in the minutes.

Roles and Responsibilities of the Project Committee

The role of the project committee is to promote communication, coordination and control of hazards associated with the interaction of constructors at a project. The project committee concerns itself with health and safety issues that impact the project as a whole. Health and safety issues that impact the employees of only one constructor should be dealt with by the home base committee or representative of the constructor.

Functions of the project committee include, but are not limited to:

- the cooperative identification of hazards to health and safety and effective systems to respond to the hazards at the project
- the cooperative auditing of compliance with health and safety requirements in the workplace at the project
- receiving, investigating and promptly handling matters and complaints with respect to workplace health and safety at the project
- participating in inspections and investigations concerning workplace health and safety and accompanying a Department of Environment and Labour officer during workplace inspections of the project
- advising on individual protective devices, and equipment that are best suited to the needs of the employees at the project
- maintaining records and minutes of project committee meetings
- performing any other duties assigned to it by the Director, by agreement between the constructor and the employees or union, or as are established by the regulations

The project committee does not normally review the policy or program of individual constructors at the project. This is the responsibility of the constructors' home base committees.

Is the constructor required to train project committee members?

To help ensure the effective and efficient operation of the project committee, members should be trained. The *Act* requires that constructors provide training so that employees can do their jobs in a safe and healthy manner. The provision of training to project committee members that is specific to the functions of the project committee will greatly enhance the ability of members to carry out their duties and therefore improve the health and safety of employees. The constructor should ensure project committee members are trained in:

- the Internal Responsibility System
- the *Occupational Health and Safety Act*
- the general content of the regulations and the role of the project committee in these regulation
- evaluation of project committee training
- the functions of the project committee and its rules of procedure
- the role of the project committee in:
  - inspections
  - hazard identification
  - investigations
  - complaints
  - work refusals
- problem solving
- communications

In order to ensure that all relevant topics are covered in the training of project committee members, the constructors should consult periodically with the project committee to review the training program.

To obtain a list of consultants in the Province who have informed the Department of Environment and Labour that they provide training for project committee members please contact the Occupational Health and Safety Division at the address noted on page 1.

What type of support does the project committee require?

In addition to training, project committees require other types of support to carry out their functions. It is very important that project committee members be excused from their regular duties so that they are able to attend meetings. For example, the constructor could schedule another employee to cover the project committee members' shift while they attend the project committee meeting. Members should also be given time away from their regular duties to prepare for meetings. The amount of time allowed for preparation may be included in the rules of procedure for the project committee. In addition the constructors should ensure that the project committee:

- have an appropriate space to meet in
- have materials such as note books, pens, file folders etc. available to them
- have access to presentation equipment (overhead machines, flip charts) present at the workplace
- are able to access administrative support when needed

The actual amount of support will vary depending upon the size of the committee and the type of project.

What is the regulatory role of the project committee?

Workplace Hazardous Materials Information System (WHMIS) Regulations

The project committee should coordinate the distribution to all constructors of the list of chemicals used by the constructors at the project. Individual constructors can then use this information to determine if their employees working near these chemicals have the appropriate training.

First Aid Regulations

If the project is located in a remote location as defined by the *First Aid Regulations*, the constructors are required to consult with the project committee in the development of a first aid remote location plan.

Occupational Safety General Regulation

The *Occupational Safety General Regulations* requires constructors consult the project committee when developing or reviewing any written policy or procedure required by the regulation that involves more than one constructor.

Regulations under review, or in the process of being drafted, may also require consultation with the project committee.

How often should workplace inspections by the project committee be carried out?

Regular inspections help identify hazards and prevent accidents. The number and frequency of inspection depends upon a number of factors. These include:

- number and size of different work operations
- type of equipment and work processes - those that are hazardous or potentially hazardous may require more frequent inspections.
- number of shifts - the activity on each shift may vary
- new processes or machinery
- size and complexity of the work area
- number of constructors working in one location of the project

The rules of procedure for the project committee should state the frequency and number of inspections. The project committee should develop an inspection schedule appropriate for the work place that allows for follow-up.

What Is the role of the project committee and project committee members in dealing with employee concerns?

An employee is required to report any hazards or a contravention of the *Act* or regulations to a supervisor. If the matter is not resolved to the satisfaction of the employee, he or she must then report it to the home base committee, either verbally or in writing.

If the supervisor finds the safety concern to be valid, and corrective action cannot be taken immediately, they should ensure the hazard does not impact on any of the employees of the other constructors at the project.

It is not normally the role of the project committee to specifically address individual worker concerns. The role of the project committee is focused on the coordination of activities and the communication of information. However; since employee health and safety concerns at a project have the potential to impact health and safety at the entire project, the supervisor of the employee with the concern should notify the project committee, through the established communication procedures for the project, of the health and safety concerns involved.

The Department of Environment and Labour publication *Joint Occupational Health and Safety Committees: A Practical Guide for Single Employer Workplaces* outlines in detail the role of the home base committee and members in dealing with employee health and safety concerns.

What is the role of the project committee and project committee members in dealing with a work refusal?

Any employee may refuse to do any work if the employee has reasonable grounds for believing the work is likely to endanger their health or safety or the health or safety of any other person.

The employee should follow the normal procedure for work refusals established for their company. The Department of Environment and Labour publication *Joint Occupational Health and Safety Committees: A Practical Guide for Single Employer Workplaces* outlines in detail the role of the home base committee and members in the work refusal process.

It is not normally the role of the project committee to investigate work refusals. The role of the project committee is focussed on the coordination of activities and the communication of information. However, since work refusals at a project have the potential to impact health and safety at the entire project, the supervisor of the refusing employee should notify the project committee. The notification should be done through the established communication procedures for the project.

If the refusing employee's company does not have a home base committee, and they are not satisfied with the response of the supervisor, do they go to the project committee?

No. The refusing employee should notify the Occupational Health and Safety Division of the refusal. An occupational health and safety officer will investigate. If the officer finds it would be healthy and safe to do so, they will advise the employee to return to work. Or, if the officer finds that it would not be healthy or safe to continue the work, the officer will issue an order to correct any unsafe or unhealthy condition. The rights of an employee during a work refusal are contained in section 43 of the *Act*; section 45 of the *Act* deals with discriminatory action. Both are contained in Appendix 6.

What is the role of the Department of Environment and Labour Occupational Health and Safety Officers?

Department of Environment and Labour Occupational Health and Safety Officers uphold and enforce the *Act*. They inspect workplaces, and investigate hazardous situations, accidents and work refusals. An officer may issue orders where there is a contravention of the *Act* or regulations. In addition, officers are available to provide advice where there are workplace concerns which could benefit from their participation. Project committees may find it helpful to enlist the assistance of an Occupational Health and Safety officer to:

- provide advice on preparing the rules of procedure for the project committee
- act as a facilitator when the project committee cannot reach agreement on recommendations
- provide health and safety information

Are project committee members required to be notified when an officer makes an inspection of the workplace?

Yes. When a Department of Environment and Labour Occupational Health and Safety officer makes an inspection of a workplace the constructors must give an employee project committee member the opportunity to accompany the officer during their inspection of the workplace.

What about confidentiality?

Project committee members are permitted access to information required for the fulfilment of project committee duties. However; the *Act* does not allow project committee members to disclose medical information and confidential trade or confidential business information. Where specifically allowed by the *Act* or as required by law, information can be disclosed. One example is the release of the chemical identity of a trade secret chemical in the event of a medical emergency.

What if recommendations of the project committee are not acted upon by the constructor?

Where a written recommendation is made and the project committee requests in writing a response to the recommendation made by the project committee, the constructors must respond within 21 days with an indication that it will be accepted or the reason why it will not . The constructors should adopt a procedure for providing the project committee with access to a manager who can address the recommendation or request. This will assist in ensuring prompt responses to recommendations or requests.

The constructors should carefully consider all recommendations of the project committee. The project committee is, in effect, a specialized in-house consultant. Members have been chosen for their experience, knowledge, and commitment to health and safety. If the constructors decide not to use or act on the advice of the project committee, an explanation should be provided to the project committee.

If the project committee has requested a response to a recommendation, and is not satisfied with the response or believes that any proposed delay is not reasonable, the chair or co-chairs are to report this fact to a Department of the Environment and Labour Occupational Health and Safety Officer.

The officer may offer consultative support to the workplace or may issue an order where there are contraventions of the *Act* or regulations.

How should serious immediate hazards be dealt with?

Depending on the seriousness of a hazard, it may not be appropriate to wait 21 days for a response to a recommendation. Section 17(2) of the *Act* requires employees to report conditions that may be hazardous to an employee's health and safety to the Occupational Health and Safety Division where the condition is not dealt with to their satisfaction by the supervisor or the project committee.

Rights of the Project Committee

What are the project committee's rights regarding information?

The project committee has a right to information relating to work at the project.

The constructors, upon request from the project committee at the workplace, must provide the project committee with reports of project occupational health and safety inspections, monitoring, or tests. The constructor must notify the project committee that such reports exist so that the project committee can decide whether or not they want to request them.

The constructors are also required to provide the project committee with a copy of:

- an order of a Department of Environment and Labour officer against a constructor relating to work on the project
- a compliance notice required of a constructor relating to work on the project
- notice that an appeal related to the project has been initiated or disposed of
- notice of accidents at the project required to be reported to the Director of Occupational Health and Safety
- an application for an authorized deviation from regulations for work done on the project
- the Director's decision regarding the application for deviation from regulations for work done on the project

The work of the project committee will be facilitated if each member receives a copy in paper form.

What are the project committee's rights regarding workplace monitoring, measurements and tests?

The constructor must allow an employee selected by the project committee to observe project occupational health and safety monitoring and sampling.

In cases where the monitoring is done continuously, regularly, or frequently the constructor must allow the employee selected by the project committee to observe

- the initial setup of the monitoring process
- monitoring and sampling where there has been a malfunction of the monitor, or an alteration in the process

The project committee must be notified far enough in advance of the monitoring to allow the project committee sufficient time to choose an employee to observe the monitoring or sampling.

The constructor must also:

- provide reasonable notice of the time when the monitoring, measurements, or tests will take place to the employee selected to observe
- ensure an explanation of the monitoring and sampling is provided to the employee chosen to observe if they request one
- pay the employee chosen to observe at the regular rate they would be paid if asked by their constructor to do their regular job at that time

A constructor is not required to permit an employee to observe monitoring, measurements or tests

- carried out on a continuous, regular, or frequent basis
- carried out in a remote location by an employee at the location
- during an emergency

Evaluating the Effectiveness of the Project Committee

In order to maintain and improve its efforts, the project committee should have some measure of its past performance. In this way, weak areas can be strengthened and strong areas maintained. Generally, the best way to do this is to compare the work of the project committee to the functions it is required to carry out. Questions that will assist in this evaluation are as follows:

Do employees know who the members of the project committee are?

A strong indication that a project committee may not be operating as effectively as it might be is when employees do not know who their project committee members are. In order to carry out his/her duties effectively a project committee member must communicate with the employees in his/her area on health and safety matters. Each member should take the initiative in making themselves known to employees.

Do employees make suggestions to members?

When employees regularly make suggestions to project committee members it indicates that communication channels are open and operating the way they should and that employees have confidence in members. In order to ensure this continues, any employee who raises a health and safety matter should be given a prompt response. If this is not possible, an explanation of why there is a delay should follow.

Are matters brought to the attention of the project committee dealt with promptly?

Long delays in addressing employee concerns, questions, or complaints indicates a lack of responsiveness on the part of the project committee. The project committee should address issues as soon as possible and explain the reasons for any delay to the employees. The time it takes for issues to be resolved should be tracked and evaluated.

Have project committee members received training?

Appropriate and adequate training of project committee members will go a long way in improving the operation of the project committee. Members who are adequately trained will understand the functions of the project committee and be able to carry out their duties more effectively. Project committee training should include:

- the Internal Responsibility System
- the *Occupational Health and Safety Act*
- the general content of the regulations and the role of the project committee in these regulation
- evaluation of project committee training
- the functions of the project committee and its rules of procedure
- the role of the project committee in:
  - inspections
  - hazard identification
  - investigations
  - complaints
  - work refusals
- problem solving
- communications

To obtain a list of consultants in the Province who have informed the Department of Environment and Labour that they provide training for project committee members please contact the Occupational Health and Safety Division.

How many project committee recommendations are implemented?

A measure directly related to the project committee's credibility and effectiveness is the number of significant recommendations that have been implemented. If this number is small in relation to the number of recommendation made, it may indicate a lack of commitment by the constructors to safety, or that recommendations made are unrealistic, or both. In either case, the project committee will be ineffective. A strong constructor commitment to health and safety and comprehensive, feasible recommendations are necessary for the effective operation of the project committee.

Refer to Appendix 4 for a further listing of questions to ask when evaluating the effectiveness of your project committee.

Appendix 1

Sample Agenda for Joint Occupational Health and Safety Project Committee Meeting

Joint Occupational Health and Safety Project Committee Meeting
Church Demolition, 5001 Ash Street
June 4, 2000

Agenda Items

No.	Item	Person Responsible	Time allotted
1	Roll Call	Bob	2 min
2	Approval of Minutes of Last Meeting	Bob	10 min
3	Outstanding Items From Previous Meeting	Bob	15 min
4	Health and Safety Complaints	June	20 min
5	Review of Incidents	Rick	15 min
6	Use of PPE: Hard Hats and Safety Boots	John	15 min
7	Constructor Request: Project Committee Input on Design of Haul Road	Bob	15 min
8	New Business	Bob	15 min
9	Date and Time of Next Meeting	Bob	2 min
10	Adjournment		

Please remember the ground rules:

- Be prompt and regular in attendance
- Enter discussion enthusiastically
- Give freely of your experience
- Allow and encourage others
- Listen attentively, take accurate notes
- Ask questions
- Appreciate other viewpoints
- Provide constructive feedback
- Receive feedback willingly
- Keep confidences
- Stick to the topic

Appendix 2

Sample List of Occupational Health and Safety Discussion Topics

Project Committee Discussion Topics
Office Building Construction Project, 1456 Main Street

1. First Aid Review
   - Training
   - Kits and Stations Replenished and Identified
   - Names of First Aiders Posted

2. Personal Protective Equipment Review
   - Hard Hats, Boots, Gloves, Respirators

3. Working at Heights
   - Guardrails, Fall Arrest Equipment

4. WHMIS Review
   - Training
   - MSDS Available and Up to Date?
   - Substitution Available?

5. Workplace Inspection Review

Appendix 3

Sample Minutes from Joint Occupational Health and Safety Project Committee Meeting

Sample # 1 - Paragraph Form

Office Building Construction Project, 1456 Main Street

Minutes Project Committee Meeting held January 10, 2001

Robert Smith opened the meeting at 10:00AM in the following were in attendance:

R.S. Smith	Build It Construction	Co-chair (General Constructor)
K. Charles	Bricklayer	Co-chair (Employee)
E.F. White	Super Mix Concrete	Member (Constructor)
B.E. Green	Electrician	Member (Employee)
J.F. Bertrand	South Point Hauling	Member & Secretary for Meeting (Constructor)
Z. Abby	Steel Worker	Member (Employee)
L.Burton	Burton Engineering	Member (Constructor)
J.F. Wilson	Concrete Pouring	Member (Employee)
J. Contant	Safety Officer	Visitor

1.0 Roll Call

Robert Smith recorded the names of those present at the meeting.

2.0 Approval of Minutes of Last Meeting

Robert Smith moved to accept the minutes. Larry Burton seconded the motion. The minutes were approved.

3.0 Outstanding Items From Previous meeting

Scaffolding Inspections
Robert Smith reported that confusion surrounding who was going to carry out scaffolding inspections has been cleared up. All scaffolding inspections will be carried out by Build It Construction staff. A notice of inspection will be posted on each scaffold . All employees are to be instructed not to climb any scaffold that does not have a passing notice of inspection posted on it. A letter will be sent to all constructors by Robert next week.

Distribution of Minutes
The survey re: posting of minutes was completed by Erin White. Three trailers did not have the minutes posted. The names of the constructors with the non-compliant trailers will be forwarded to Robert Smith. He will contact the constructors next week and ensure they post the minutes.

4.0 Health and Safety Complaints

A complaint was received from the electricians regarding the air quality. The bricklayers have closed off an area and placed salamanders in the area to speed up the curing of the concrete. The electricians are concerned that the exhaust from the salamanders are a health hazard. An investigation will be started tomorrow.

Kevin Charles reported that several welders with Johnson's Welding were observed not wearing their goggles while grinding. The committee agreed that this was not a Project Committee issue because it did not impact on the health and safety of other constructors' employees and was limited to only one constructor. The project safety officer will send a letter to Johnson's Welding informing them of the goggle issue within a week.

5.0 Review of Incidents

One of the painters, Gerry Kemp, tripped on debris left behind by the carpenters. Robert Smith will instruct A-1 Carpentry to clean up by the end of the week.

7.0 New Business

The committee requested the project safety officer send reminder letters to upcoming committee members do they do not miss any meetings.

South Point Electrical reports that power outlets on the 3rd floor will be live on Tuesday. Outlets on the 1st and 2nd floor will remain live. Robert smith will send a letter to all constructors informing them of this.

The work schedule for the next month was presented.

The schedule for new employee orientation was approved.

Proactive Topic for the Month: Working in Cold Weather
A brief presentation was given by Robert Smith on the hazards of working in cold weather. Key points:

- beware of the wind chill. It can increase the risk of frost bite
- hands are particularly vulnerable. Adequate gloves should be worn
- cold weather is especially a problem for mechanic who must clean parts, exposing their hands

Request for Input on GFIC's
It is policy on the project that GFIC's be used on all portable equipment. Input was requested re: how these will be shared and used by all.

10.0 Next Meeting

The next meeting will be held at 10:00AM in the Burton Engineering Trailer , January 30, 2001.

11.0 Adjournment

The meeting was adjourned at 12:00 NOON.

R.S. Smith K. Charles

Sample # 2 - Table Form

Minutes of Joint Occupational Health and Safety Project Committee Meeting held January 10, 2001

Office Building Construction Project, 1456 Main Street

In attendance:

R.S. Smith, General Constructor (Co-chair)
E.F. White, Constructor
J.F. Bertrand, Constructor
L.Burton, Constructor
J. Contant, Visitor
K. Charles, Employee (Co-chair)
B.E. Green, Employee
Z. Abby, Employee
J.F. Wilson, Employee

Old Business	Action By	Date Required
Approval of Minutes Minutes approved.		
Scaffolding Inspections All scaffold inspections will be done by Build It Construction staff. All employees to be advised of policy.	Robert Smith	January 17, 2001
Distribution of Minutes The survey indicated that 3 constructors did not have minutes posted. The constructors will be told to post the minutes.	Robert Smith	January 12, 2001
Health and Safety Complaints Poor air quality reported by electricians due to closing off of area and exhaust from salamanders. An investigation will be started tomorrow.	All	January 11, 2001
Welders with Johnson's Welding were observed not wearing their goggles while grinding. Not within the scope of the Project Committee. Project safety officer to send letter to Johnson's.	Jeff Contant	January 11, 2001
Incidents One of the painters, Gerry Kemp, tripped on debris left behind by the carpenters. Robert Smith will instruct A-1 Carpentry to clean up the end of the week.	Robert Smith	January 11, 2001
New Member Letters The project safety officer will send reminder letters to upcoming committee members.	Jeff Contant	January 15, 2001
Power Outlets Live Power outlets on the 3rd floor will be live on Tuesday. Outlets on the 1st and 2nd floor will remain live. Robert smith will send a letter to all constructors informing them of this.	Robert Smith	January 11, 2001
Work Schedule The work schedule for the next month was presented.		
Employee Orientation The schedule for new employee orientation was approved.		

New Business	Action By	Date Required

Working In Cold Weather
A presentation on the hazards of working in cold weather was given.

Management Request: Input on GFIC's
Input on the use and sharing of GFIC's was requested — Next meeting

The meeting adjourned at 3:15 PM.

The next meeting is 10:00AM in Burton Engineering trailer January 30, 2001.

R.S. Smith
Co-chair

K. Charles
Co-chair

Appendix 4

Questions to ask when evaluating the effectiveness of joint occupational health and safety project committees

Are the duties and authority of members known to the employees?

Is the project committee perceived by employees as performing a useful function in providing leadership in safety?

Is the project committee perceived by the constructors as usurping its responsibilities and authority?

Are members perceived by line supervisors as a barrier to employee/supervisor communication in safety?

Is the project committee perceived by labour as reducing constructor's responsibility for maintaining a safe workplace?

Are members perceived as enforcers or advisors?

Does constructor representation on the project committee reflect its strong commitment to safety?

Do the constructors support the activities of the project committee?

In a unionized workplace, what support does the union provide to its members on the project committee?

What proportion of members' time during paid work hours is spent on health and safety activities?

Appendix 5

Sample Rules of Procedure of Meetings of a Project Committee

Presiding a Meeting

1 (1) The co-chair or a chair is responsible for conducting a well-organized and effective meeting of the Project Committee in accordance with the following rules of order.

(2) The co-chair shall conduct a meeting in a fair and impartial manner and give every member an opportunity to participate and speak at a meeting.

2 Prior to every meeting, a co-chair shall ensure that the person who is to record the minutes of the meeting is present or request a member present to record the minutes.

3 At the opening of every meeting, a co-chair or chairperson shall

(a) call the meeting of the Project Committee to order;

(b) note if a quorum exists, in accordance with these rules of procedure and if there is no quorum, adjourn the meeting to another time;

(c) call for a motion to adopt the agenda for the meeting after requesting if any changes or additions are proposed to the agenda;

(d) after discussion of the motion to adopt the agenda, call for a vote to adopt the agenda as proposed or as amended;

(e) call for a motion to adopt the previous minutes of the Project Committee, if any, after requesting if any corrections or additions are needed to the minutes;

(f) after a discussion of the motion to adopt the previous minutes, call for a vote to declare the minutes, with corrections or additions, if any, to be adopted;

(g) proceed with the succeeding agenda items;

(h) call for a motion to adjourn the meeting if all the agenda items have been dealt with or no more time is available; and

(i) after discussion of the motion to adjourn, call for a vote to adjourn the meeting.

Motions

4 (1) A member may make a motion by

(a) raising a hand or standing; and

(b) after being recognized by the co-chairperson or chairperson, by moving a proposal as clearly and as simply as possible.

(2) The co-chairperson may rule the motion of a member in order or temporarily out of order, if it does not conform to the order of business.

5 (1) For a motion which is in order, a co-chair shall call for a second to the motion.

(2) If no member seconds the motion, the co-chair shall state that the motion is dropped for want of a second.

(3) After a motion has been seconded, the co-chair shall restate the motion and ask for discussion.

(4) The co-chairperson shall allow adequate time for discussion before voting.

6 (1) A member may move an amendment to a motion on the floor.

(2) If seconded, discussion and a vote shall be held on the motion as amended prior to discussion and vote on the main motion.

7 (1) A member may raise a point of order involving these rules of procedure and the rights of a member at any time during the meeting.

(2) The co-chairperson shall make a decision on the point of order before a motion or amendment to a motion is acted on.

8 (1) A member may make a motion - 1. to adjourn, 2. to recess, or 3. to raise a personal privilege at any time during the meeting.

(2) A motion to adjourn or to recess, requires a second and is not debatable and shall be voted on prior to any other motion pending.

(3) If more than one motion referred to in subrule (1) is made, it shall be acted on in the order set out in subrule (1).

(4) The co-chairperson shall declare the meeting adjourned if the motion to adjourn carries.

9 (1) A member seeking personal privilege may interrupt the speaker and raise a matter that involves the immediate comfort or right of a member.

(2) The co-chair or chair shall attend to the motion which involves personal privilege without delay.

Discussion and Vote

10 Every member has the right to participate in any meeting and to one vote.

11 A member may speak without interruption except if another member makes a motion

(a) subject to time limit or a motion to reconsider by a member voting with the side that carried the motion; or

(b) a motion raising a personal privilege, a request for information, or a point of order.

12 Where several members simultaneously want to be recognized, the co-chairperson shall recognize a member in the following order of preference

(1) a member who explains a proposal has the first opportunity to offer a motion;

(2) a member who has not engaged in the discussion is recognized ahead of one who has spoken; and

(3) a member who is opposed to a motion is given an opportunity to follow one who is in favour of the motion.

13 A member's remarks shall

(1) pertain to the question being debated. If the member wanders off the subject, the co-chair must request remarks be confined to the pending question;

(2) be impersonal and addressed to the motion being considered; and

(3) be orderly and courteous; otherwise, the co-chair may refuse the offending member the right to speak.

14 The co-chair shall assure that the member speaking is heard by insisting members listen and not permit irrelevant discussion.

15 (1) When all members wishing to speak have spoken, the co-chair brings the question to a vote by asking if there is further discussion, and then calls for the vote.

(2) If the discussion drags on for too long or no new facts or opinions seem to surface by further discussion, any member may move to close debate and vote on the question and this motion requires a second.

(3) A motion referred to in subrule (2), if seconded, is not debatable and the co-chairperson shall at once call the vote on whether the discussion continues.

(4) Without a motion to close debate, a member wishing to discuss the question, even after part of the vote is taken, may do so and the complete vote shall be retaken.

16 (1) Unless otherwise specified in the Act or the regulations or the rules of procedure, a vote of a majority of the members present carries a motion.

(2) In the case of a tie vote, the co-chairperson may cast the deciding vote, or the motion is lost.

(3) The co-chairperson shall

(a) ask first for a vote of those in favour of a motion to say "yes, and then for those opposed to it to say "no"; and

(b) decide and declare the outcome of the vote.

(4) If a voice vote is uncertain, the co-chairperson may call for a show of hands.

(5) Members may change their vote until the co-chairperson announces the result of the vote.

Appendix 6

Relevant Sections of the Occupational Health and Safety Act

Precautions to be taken by constructors

15 Every constructor shall take every precaution that is reasonable in the circumstances to ensure
- (a) the health and safety of persons at or near a project;
- (b) that the activities of the employers and self-employed persons at the project are co-ordinated;
- (c) communication between the employers and self-employed persons at the project of information necessary to the health and safety of persons at the project, and facilitate communication with any committee or representative required for the project pursuant to this *Act* or the regulations;
- (d) that the measures and procedures prescribed under this *Act* and the regulations are carried out on the project; and
- (e) that every employee, self-employed person and employer performing work in respect of the project complies with this *Act* and the regulations.

Owners' precautions and duties

19 Every owner shall
- (a) take every precaution that is reasonable in the circumstances to provide and maintain the owner's land or premises being or to be used as a workplace
  - (i) in a manner that ensures the health and safety of persons at or near the workplace, and
  - (ii) in compliance with this *Act* and the regulations; and
- (b) give to the employer at the workplace the information that is
  - (i) known to the owner or that the owner could reasonably be expected to know, and
  - (ii) necessary to identify and eliminate or control hazards to the health or safety of persons at the workplace.

Nature and extent of duties and requirements

23 (1) A specific duty or requirement imposed by this *Act* or the regulations does not limit the generality of any other duty or requirement imposed by this *Act* or the regulations.

(2) Where a provision of this *Act* or the regulations imposes a duty or requirement on more than one person, the duty or requirement is meant to be imposed primarily on the person with the greatest degree of control over the matters that are the subject of the duty or requirement.

(3) Notwithstanding subsection (2), but subject to subsection (5), where the person with the greatest degree of control fails to comply with a duty or requirement referred to in subsection (2), the other person or persons on whom the duty or requirement lies shall, where possible, comply with the provision.

(4) Where the person with the greatest degree of control complies with a provision described in subsection (2), the other persons are relieved of the obligation to comply with the provision only
- (a) for the time during which the person with the greatest degree of control is in compliance with the provision;
- (b) where simultaneous compliance by more than one person would result in unnecessary duplication of effort and expense; and
- (c) where the health and safety of persons at the workplace is not put at risk by compliance by only one person.

(5) Where the person with the greatest degree of control fails to comply with a provision described in subsection (2) but one of the other persons on whom the duty or requirement is imposed complies with the provision, the other persons, if any, to whom the provision applies are relieved of the obligation to comply with the provision in the circumstances set out in clauses 4(a) to (c) with the necessary modifications.

Requirement for committees

29 (1) At every workplace where twenty or more persons are regularly employed, the constructor shall establish and maintain one joint occupational health and safety committee or, at the discretion of the constructor, more than one such committee and, where twenty or more persons are regularly employed by one or more constructors at a project, a constructor shall establish and maintain a joint occupational health and safety committee for the project.

(2) At a workplace where fewer than twenty persons are regularly employed, the Director may
(a) consult with the constructor and employees at the workplace regarding whether a committee should be formed at the workplace; and
(b) order that a committee be established.

(3) Where an order respecting establishment of a committee is given pursuant to subsection (2), the constructor shall ensure that the committee is chosen and functioning in accordance with this *Act* within fifteen days of receipt of the order.

Composition and procedure of committee

30 (1) A committee shall consist of such number of persons as may be agreed to by the constructor and the employees or their union or unions.

(2) At least half of the members of a committee shall be employees at the workplace who are not connected with the management of the workplace and the constructor may choose up to one half of the members of the committee if the constructor wishes to do so.

(3) The employees on the committee are to be determined by the employees they represent, or designated by the union that represents the employees.

(4) A committee shall meet at least once each month unless
(a) a different frequency is prescribed by the regulations; or
(b) the committee alters the required frequency of meetings in its rules of procedure.

(5) Where a committee alters the required frequency of meetings by its rules of procedure and the Director is not satisfied that the frequency of meetings is sufficient to enable the committee to effectively perform its functions, the frequency of meetings shall be as determined by the Director.

(6) An employee who is a member of a committee is entitled to such time off from work as is necessary to attend meetings of the committee, to take any training prescribed by the regulations and to carry out the employee's functions as a member of the committee, and such time off is deemed to be work time for which the employee shall be paid by the constructor at the applicable rate.

(7) A committee shall establish its own rules of procedure and shall adhere to the applicable regulations.

(8) Unless a committee determines another arrangement for chairing the committee in its rules of procedure, two of the members of the committee shall co-chair the committee, one of whom shall be selected by the members who represent employees and the other of whom shall be selected by the other members.

(9) The rules of procedure established pursuant to subsection (7) shall include an annual determination of the method of selecting the person or persons who shall
(a) chair the committee; and
(b) hold the position of chair for the coming year.

(10) Where agreement is not reached on
(a) the size of the committee;
(b) the designation of employees to be members; or
(c) rules of procedure,
the Director shall determine the matter.

Functions of committees

31 (1) It is the function of the committee to involve employers and employees together in occupational health and safety in the workplace and, without restricting the generality of the foregoing, includes

(a) the co-operative identification of hazards to health and safety and effective systems to respond to the hazards;

(b) the co-operative auditing of compliance with health and safety requirements in the workplace;

(c) receipt, investigation and prompt disposition of matters and complaints with respect to workplace health and safety;

(d) participation in inspections, inquiries and investigations concerning the occupational health and safety of the employees and, in particular, participation in an inspection referred to in Section 50;

(e) advising on individual protective devices, equipment and clothing that, complying with this *Act* and the regulations, are best adapted to the needs of the employees;

(f) advising the employer regarding a policy or program required pursuant to this *Act* or the regulations and making recommendations to the employer, the employees and any person for the improvement of the health and safety of persons at the workplace;

(g) maintaining records and minutes of committee meetings in a form and manner approved by the Director and providing an officer with a copy of these records or minutes on request; and

(h) performing any other duties assigned to it

(i) by the Director,

(ii) by agreement between the employer and the employees or the union, or

(iii) as are established by the regulations.

Deemed establishment of committee

32 Where a committee was established prior to January 1, 1986, and has been maintained, pursuant to a collective agreement or other arrangement in a workplace, and the Director is satisfied that such committee or arrangement provides benefits for the health and safety of employees equal to or greater than the benefits to be derived under a committee established pursuant to this *Act*, the committee or arrangement is deemed to have been established in compliance with this *Act*.

Communication of Information

Response to written recommendations

23 (1) An employer who receives written recommendations from a committee or representative and a request in writing to respond to the recommendations, shall respond in writing to the committee or representative within twenty-one days, and the response shall

(a) indicate acceptance of the recommendations; or

(b) give reasons for the disagreement with any recommendations that the employer does not accept,

or, where it is not reasonably possible to provide a response before the expiry of the twenty-one day period, provide within that time a reasonable explanation for the delay, indicate to the committee or representative when the response will be forthcoming, and provide the response as soon as it is available.

(2) Where the committee or representative makes a request pursuant to subsection (1) and is not satisfied that the explanation provided for a delay in responding is reasonable in the circumstances, the chair or co-chairs of the Committee, or representative, as the case may be, shall promptly report this fact to an officer.

Duty of employer to provide certain information

35 (1) An employer shall notify the committee or representative, if any, of the existence of reports of

(a) workplace occupational health or safety inspections; and

(b) workplace occupational health or safety monitoring or tests,

undertaken at the workplace by, or at the request of, an officer or the employer and, on request, the employer shall make the reports available to the committee or the representative.

(2) An employer shall make available to an employee at a workplace, on request, reports of

(a) workplace occupational health or safety inspections; and

(b) workplace occupational health or safety monitoring or tests,

undertaken at the workplace by, or at the request of, an officer or the employer.

(3) Within twenty-one days of receiving a request in writing from the committee, representative or, where there is no committee or representative, an employee at a workplace for any information of a health or safety nature other than that specified in subsection (1), the employer shall respond in writing and the response shall
   (a) provide the requested information; or
   (b) give reasons for not providing the information, in whole or in part, and where it is not reasonably possible to provide a response before the expiry of the twenty-one day period, provide within that time a reasonable explanation for the delay, indicate to the committee, representative or employee when the response will be forthcoming and provide the response as soon as it is available.

(4) Where the committee, representative or employee makes a request pursuant to subsection (3) and is not satisfied that the explanation provided for a delay in responding is reasonable in the circumstances, the chair or co-chairs of the committee, the representative or the employee, as the case may be, shall promptly report this fact to an officer.

Workplace Monitoring, Measurements and Tests

Right of employee to observe and be paid

42 (1) Every employer shall permit an employee selected pursuant to subsection (2) to observe workplace occupational health or safety monitoring and the taking of samples or measurements that relate to the health or safety of employees at the workplace, unless the monitoring or taking of samples or measurements takes place
   (a) continuously or on a regular and frequent basis, except to observe the initial setup of the workplace occupational health or safety monitoring process and to be informed and observe the monitoring where there has been a malfunction of the monitor or alteration in the process;
   (b) in a location that is remote and is part of the regular task of a person employed at the location; or
   (c) during an emergency situation,
   and time spent by the employee in such activities is deemed to be work time for which the employee shall be paid by the employer at the applicable rate.

(2) Where there is
   (a) a committee or representative at a workplace, the employee who observes workplace occupational health or safety monitoring and the taking of samples or measurements shall be selected by the committee or representative, as the case may be; or
   (b) no committee or representative at a workplace, the employee who observes workplace occupational health or safety monitoring and the taking of samples or measurements shall be selected by the employees.

(3) Every employer shall provide
   (a) reasonable notice to an observer of the commencement of the occupational health or safety monitoring and of the taking of samples or measurements undertaken pursuant to subsection (1); and
   (b) access to a workplace for the purpose of the observation.

(4) Where an observer requests, the procedure for occupational health or safety monitoring and the taking of samples or measurements shall be identified and explained to the observer.

(5) Where an owner, constructor or contractor performs occupational health or safety monitoring or takes samples or measurements that relate to the health or safety of employees at the workplace,
   (a) the owner, constructor or contractor shall provide reasonable notice to all employers at the workplace of the commencement of the occupational health or safety monitoring and of the taking of samples or measurements; and
   (b) the requirements of subsections (1) to (4) apply.

(6) Where the monitoring, samples or measurements referred to in subsection (1) are conducted by, or at the request of, an officer, the officer may undertake the monitoring, samples or measurements whether or not notice has been given pursuant to subsection (3) or (5).

Right to Refuse Work

Right to refuse work and consequences of refusal

43 (1) Any employee may refuse to do any act at the employee's place of employment where the employee has reasonable grounds for believing that the act is likely to endanger the employee's health or safety or the health or safety of any other person until

(a) the employer has taken remedial action to the satisfaction of the employee

(b) the committee, if any, has investigated the matter and unanimously advised the employee to return to work; or

(c) an officer has investigated the matter and has advised the employee to return to work.

(2) Where an employee exercises the employee's right to refuse to work pursuant to subsection (1), the employee shall

(a) immediately report it to a supervisor;

(b) where the matter is not remedied to the employee's satisfaction, report it to the Project Committee or the representative, if any; and

(c) where the matter is not remedied to the employee's satisfaction after the employee has reported pursuant to clauses (a) and (b), report it to the Division.

(3) At the option of the employee, the employee who refuses to do any act pursuant to subsection (1) may accompany an officer or the Project Committee or representative, if any, on a physical inspection of the workplace, or part thereof, being carried out for the purpose of ensuring others understand the reasons for the refusal.

(4) Notwithstanding subsection 50(8), an employee who accompanies an officer, the Project Committee or a representative, as provided in subsection (3), shall be compensated in accordance with subsection (7), but the compensation shall not exceed that which would otherwise have been payable for the employee's regular or scheduled working hours.

(5) Subject to any applicable collective agreement, and subsection (3), where an employee refuses to do work pursuant to subsection (1), the employer may reassign the employee to other work and the employee shall accept the reassignment until the employee is able to return to work pursuant to subsection (1).

(6) Where an employee is reassigned to other work pursuant to subsection (5), the employer shall pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued in the employee's normal work.

(7) Where an employee has refused to work pursuant to subsection (1) and has not been reassigned to other work pursuant to subsection (5), the employer shall, until clause (1)(a), (b) or (c) is met, pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued to work.

(8) A reassignment of work pursuant to subsection (5) is not discriminatory action pursuant to Section 45.

(9) An employee may not, pursuant to this Section, refuse to use or operate a machine or thing or to work in a place where

(a) the refusal puts the life, health or safety of another person directly in danger; or

(b) the danger referred to in subsection (1) is inherent in the work of the employee.

Restriction on assignment of work where refusal

44 Where an employee exercises the employee's right to refuse to work pursuant to subsection 43(1), no employee shall be assigned to do that work until the matter has been dealt with under that subsection, unless the employee to be so assigned has been advised of

(a) the refusal by another employee;

(b) the reason for the refusal; and

(c) the employee's rights pursuant to Section 43.

Discriminatory Action

Prohibition of "discriminatory action"

45 (1) In this Section and in Section 46, "discriminatory action" means an action that adversely affects an employee with respect to terms or conditions of employment or any opportunity for employment or promotion and includes dismissal, layoff, suspension, demotion, transfer of job or location, change in hours of work, coercion, intimidation, imposition of any discipline, reprimand or other penalty including reduction in wages, salary or other benefits, or the discontinuation or elimination of the job of the employee.

(2) No employer or union shall take, or threaten to take, discriminatory action against an employee because the employee has acted in compliance with this *Act* or the regulations or an order or direction made thereunder or has sought the enforcement of this *Act* or the regulations or, without limiting the generality of the foregoing, because

(a) of the participation of the employee in, or association with, a Project Committee or the employee has sought the establishment of a Project Committee or performed functions as a Project Committee member;

(b) of the association of the employee with a representative or the employee has sought the selection of a representative or performed functions as a representative;

(c) the employee has refused to work pursuant to subsection 43(1);

(d) the employee has sought access to information to which the employee is entitled by this *Act* or the regulations, or has been assigned the role of observer pursuant to Section 42;

(e) the employee has testified or is about to testify in any proceeding or inquiry pursuant to this *Act* or the regulations; or

(f) the employee has given information to the Project Committee, a representative, an officer or other person concerned with the administration of this *Act* or the regulations with respect to the health and safety of employees at the workplace,

unless the employer or union, as the case may be, establishes that such action is solely motivated by legitimate business reasons.

(3) On an inquiry into a complaint pursuant to Section 46 alleging that there has been a failure by an employer or a union to comply with subsection (2), the burden of proving that there has been no such failure is upon the employer or the union, as the case may be.

Accompaniment during inspections

50 (1) For the purpose of this Section, "inspection" means a physical inspection of a workplace, or any part or parts of a workplace, pursuant to the powers conferred upon an officer pursuant to Section 47.

(2) Where an officer conducts an inspection,

(a) the employer shall give the representative or an employee member of the Project Committee, if any; and

(b) a representative of the employer shall have, the opportunity to accompany the officer during the officer's inspection.

(3) Where there is no Project Committee member representing employees or representative available, the officer may select one or more employees who shall accompany the officer during the officer's inspection.

(4) Where a representative or employee member of the Project Committee is unavailable to accompany the officer during the officer's inspection, the officer shall endeavor to consult with a reasonable number of employees during the inspection.

(5) For greater certainty, where

(a) a person referred to in clause (2)(a) or (b) is unavailable to accompany an officer during the officer's inspection; and

(b) in the officer's opinion it is necessary to proceed with the inspection without accompaniment, the officer may conduct the inspection without accompaniment.

(6) Notwithstanding subsections (2) and (3) and subject to subsection (7), an officer may question any person who is or was in a workplace either separate and apart from another person or in the presence of any other person regarding anything that is or may be relevant to the officer's inspection, examination, investigation, inquiry or test.

(7) The individual who is questioned pursuant to subsection (6) may request to be accompanied and may be accompanied by another person during the questioning.

(8) Subject to subsection 43(4), time spent by a Project Committee member, representative or employee in accompanying or consulting with an officer during an inspection is deemed to be work time for which the Project Committee member, representative or employee shall be paid by the employer at the applicable rate.

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